

**REMARKS**

Claims 66-71, 78-85, 92-94 are pending in this application. Claims 1-65, 72-77, 86-91 and 95-100 have been canceled without prejudice to or disclaimer of the subject matter contained therein. Claims 66-69 and 81-84 have been amended. Claims 78-80 and 92 have been amended, but are withdrawn as being directed to non-elected subject matter. Claims 93-94 have been withdrawn as being directed to non-elected subject matter.

Applicants, by canceling or amending any claims herein, make no admission as to the validity of any rejection made by the Examiner against any of these claims. Applicants reserve the right to reassert any of the claims canceled herein or the original claim scope of any claim amended herein, in a continuing application.

Claim 66 has been amended to recite "A molecule, comprising: an isolated peptide comprising an amino acid sequence comprising SEQ ID NO: 1." Support for this amendment can be found throughout the specification and claims as originally filed.

Claim 81 has been amended to recite "A kit for diagnosing mycobacterial infection in a subject, the kit comprising: a molecule comprising an isolated peptide comprising an amino acid sequence comprising SEQ ID NO:1." Support for this amendment can be found throughout the specification and claims as originally filed.

Claim 82 has been amended to recite "A vaccine, comprising: an immunologically acceptable carrier; and a molecule comprising an isolated peptide comprising an amino acid sequence comprising SEQ ID NO:1." Support for this amendment can be found throughout the specification and claims as originally filed.

Withdrawn claims 78-80 and 92 and 94 have been amended similarly.

The remaining amended claims have been amended in view of the amendments to claims 61, 81, and 82 and to be placed in proper US claim format. Support for these amendments can be found throughout the specification and claims as originally filed.

No new matter has been added.

In view of the remarks set forth below, further and favorable consideration is respectfully requested.

***I. Interview***

Applicants thank Examiner Devi for conducting an interview with Applicants' undersigned representative on July 12, 2010. During the interview, the Examiner agreed that all of the present rejections will be overcome: (1) if the claims are amended to remove the language preceded by the term "optionally in claims 66, 81 and 82; and (2) if a terminal disclaimer is filed. Applicants thank the Examiner for this indication and note that the claims have been amended and a terminal disclaimer is being filed herewith. Accordingly, Applicants submit that the application is in condition for allowance.

***II. At page 3 of the Official Action, the specification has been objected to.***

The Examiner objects to the specification because the cross-reference to priority documents is allegedly improper because of the phrase "is incorporated herein by reference." The Examiner additionally objects to the specification in view of the language recited in claims 66, 81, and 82.

In view of the following, these objections are respectfully traversed.

From the outset, Applicants submit that the objection to the specification in view of the claim language recited in claims 66, 81 and 82 has been obviated by the amendments to those claims. In particular, claims 66, 81 and 82 no longer recite the subject matter preceded by the term “optionally.”

With regard to the amendment to the specification filed on February 16, 2010, incorporating the related application information into the specification by reference, Applicants respectfully submit that ***the incorporated by reference is proper*** for at least the reason that the oath/declaration filed in the captioned application properly references each of PCT/IL2004/000929, filed October 10, 2004, U.S. Provisional Application No. 60/509,546, filed October 9, 2003, and U.S. Provisional Application No. 60/536,508, filed January 15, 2004.

With regard to incorporation by reference, 37 CFR 1.57(a) provides that:

Subject to the conditions and requirements of this paragraph, if all or a portion of the specification or drawing(s) is inadvertently omitted from an application, but the application contains a claim under § 1.55 for priority of a prior-filed foreign application, or a claim under § 1.78 for the benefit of a prior-filed provisional, nonprovisional, or international application, that was present on the filing date of the application, and the inadvertently omitted portion of the specification or drawing(s) is completely contained in the prior-filed application, ***the claim under § 1.55 or § 1.78 shall also be considered an incorporation by reference of the prior-filed application as to the inadvertently omitted portion of the specification or drawing(s).*** (Emphasis Added)

Applicants respectfully submit that a proper claim of priority to the earlier filed related applications under § 1.78 was made in the declaration of the present application. Accordingly, the amendment to the specification incorporating the priority documents does not add new matter into the specification.

In view of the foregoing, Applicants respectfully request reconsideration and withdrawal of these objections.

***III. At page 5 of the Official Action, the Examiner maintains the provisional rejection of claims 82 and 83 under the judicially created doctrine of obviousness type-double patenting as being unpatentable over claims 35 and 36 of co-pending US Patent Application No. 11/630,115 .***

Applicants respectfully submit that this rejection has been obviated by the submission, herewith, of a terminal disclaimer. Accordingly, Applicants respectfully request reconsideration and withdrawal of this rejection.

***IV. At page 5 of the Official Action, claims 66-71 and 81-85, have been rejected under 35 USC § 112, first paragraph.***

The Examiner asserts that claims 66-71 and 81-85 as either reciting new matter or failing to comply with the written description requirement. In particular, the Examiner rejects the recitation of the phrases preceded by the term “optionally.”

Applicants respectfully submit that this rejection has been obviated by the amendments to claims 66, 81 and 82. In particular, each of those claims no longer recite the phrases preceded by the term “optionally.”

Amended claim 66 recites “A molecule, comprising: an isolated peptide comprising an amino acid sequence comprising SEQ ID NO: 1.” Amended claim 81 recites “A kit for diagnosing mycobacterial infection in a subject, the kit comprising: a molecule comprising an isolated peptide comprising an amino acid sequence comprising SEQ ID NO:1.” Amended claim 82 now recites “a vaccine, comprising: an immunologically acceptable carrier; and a molecule comprising an isolated peptide comprising an amino acid sequence comprising SEQ ID NO:1.”

In view of the foregoing, Applicants respectfully request reconsideration and withdrawal of this rejection.

**VI. At page 9 of the Official Action claims 66-71 and 81-85 have been rejected under 35 USC § 112, second paragraph.**

The Examiner asserts that claims 66-71 and 81-85 are indefinite because of the subject matter preceded by the phrases “optionally” in claims 66, 81 and 82.

Applicants respectfully submit that this rejection has been obviated by the amendments to claims 66, 81 and 82. In particular, each of those claims no longer recite the phrases preceded by the term “optionally.”

Amended claim 66 recites “A molecule, comprising: an isolated peptide comprising an amino acid sequence comprising SEQ ID NO: 1.” Amended claim 81 recites “A kit for diagnosing mycobacterial infection in a subject, the kit comprising: a molecule comprising an isolated peptide comprising an amino acid sequence comprising SEQ ID NO:1.” Amended claim 82 now recites “a vaccine, comprising: an immunologically acceptable carrier; and a molecule comprising an isolated peptide comprising an amino acid sequence comprising SEQ ID NO:1.”

The test for anticipation is whether each and every element as set forth is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987); MPEP § 2131. The identical invention must be shown in as complete detail as is contained in the claim. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989); MPEP §2131. The elements must also be arranged as required by the claim. *In re Bond*, 15 USPQ2d 1566 (Fed. Cir. 1990).

In view of the foregoing, Applicants respectfully request reconsideration and withdrawal of these objections.

***VII. At page 10 of the Official Action, claims 66-68, 81 and 82 have been objected to.***

The Examiner objects to claims 66-68, 81 and 82 due because of: (1) the inconsistent use of a hyphen separating “ManLAM” and “binding antibody;” and (2) the use of a comma separating the preamble and transition language in claims 66 and 82.

Applicants respectfully submit that the objections to the claims have been rendered moot by the amended claims submitted herewith.

With regard to item (1), Applicants submit that the claims have been amended to include a hyphen between “ManLAM” and “binding antibody.”

With regard to item (2) Applicants respectfully submit that the separation of a preamble and transition language by a comma is well recognized as proper US practice. However, solely in order to expedite allowance of the present application, the subject commas have been removed since the scope of the claim is unchanged.

Accordingly, the Examiner is respectfully requested to withdraw these objections.

### **CONCLUSION**

In view of the foregoing, Applicants submit that the application is in condition for allowance. Early notice to that effect is earnestly solicited. The Examiner is invited to contact the undersigned attorney if it is believed that such contact will expedite the prosecution of the application.

In the event this paper is not timely filed, Applicants petition for an appropriate extension of time. Please charge any fee deficiency or credit any overpayment to Deposit Account No. 14-0112.

Respectfully submitted,

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